

SERVICE DATE – JULY 10, 2015

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 290 (Sub-No. 327X)

**Norfolk Southern Railway Company – Abandonment, Discontinuance of Trackage Rights,
and Discontinuance of Service Exemption – in Cleveland and Rutherford Counties, N.C.
and Cherokee County, S.C.**

BACKGROUND

On June 16, 2015, Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of two segments of rail line in Cleveland County, North Carolina. The segments proposed for abandonment extend approximately 9.95 miles between milepost SB 144.55 and milepost SB 154.50 and approximately 1.9 miles between milepost SB 158.10 and mile post SB 160.00, a total of 11.85 miles (the Lines). If the notice becomes effective, NSR will be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way. NSR also seeks to discontinue trackage rights over approximately 22.80 miles of railroad owned by CSX Transportation, Inc. The rail line over which NSR proposes to discontinue trackage rights connects the two segments of rail line proposed for abandonment and extends between milepost SF 384.6 and milepost SF 407.4 in Cleveland County, North Carolina and Rutherford County, North Carolina. Finally, NSR also seeks to discontinue service over approximately 3.20 miles of rail line owned by NSR and extending between milepost SB 144.55 and milepost SB 141.35 in Cherokee County, South Carolina. If the notice becomes effective, NSR will no longer provide rail service over the two lines proposed for discontinuance; however, these rail lines would not be salvaged. A map depicting the rail lines proposed for abandonment and discontinuance is appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

NSR submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a

The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

In this EA, OEA considers only the potential environmental impacts related to the diversion of traffic from and the salvage of the two lines that NSR proposes to abandon. OEA did not consider any impacts related to the two lines proposed for discontinuance. Should NSR's notice become effective, NSR and CSXT, respectively, would retain ownership of the two lines proposed for discontinuance. In order to salvage or dispose of the rights-of-way, NSR or CSXT would be required to obtain abandonment authority from the Board. OEA would then prepare an EA addressing the potential environmental impacts, if any, that could result from the diversion of traffic over or salvage of those lines.

Diversion of Traffic

NSR states that no local traffic or overhead traffic has moved over the rail lines proposed for abandonment for at least two years. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or of recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

If abandonment authority is granted in this proceeding, NSR intends to salvage rail and related track material. Salvage would take place within the existing rail right-of-way using existing public roadways for access. No ballast would be removed during salvage and no soil would be disturbed. The contour of the existing roadbed would not be altered and existing drainage systems would remain intact. Salvaged rail and other steel materials would be reused or sold as scrap. Salvaged crossties would be reused or disposed of in accordance with applicable federal and state laws and regulations. There are three bridges located on the lines proposed for abandonment that would be removed during salvage.

Land Use

NSR requested comments from the City of Shelby, North Carolina (the City) regarding potential implications of the proposed abandonment for local land use plans. In response, the City submitted comments in support of the proposed abandonment and expressing interest in converting the right-of-way for use as a pedestrian corridor. The City states that it would be interested in either purchasing a portion of the right-of-way outright from NSR or in becoming a trail sponsor through the federal rails-to-trails (railbanking) program under the National Trails Act at 16 U.S.C. § 1247(d) (Trails Act). The City states that the incorporation of the rail corridor into the existing network of pedestrian and bicycling corridors would be consistent with the City

of Shelby Comprehensive Land Use Plan, the City of Shelby Comprehensive Pedestrian Plan, and the Carolina Thread Trail Master Plan for Cleveland County Communities.

The Gaston-Cleveland-Lincoln Metropolitan Planning Organization submitted comments supporting the proposal of Shelby and of Cleveland County to facilitate the conversion of the Lines into a pedestrian corridor.

In a filing dated June 18, 2015, the City requested that the Board issue a Public Use Condition and establish a Notice of Interim Trail Use, pursuant to 49 C.F.R. § 1152.29. In response, NSR has commented that it does not object to the issuance of a NITU and is willing to enter into negotiations with the City toward a possible trails use arrangement.

Ordinarily, the Board does not consider post abandonment activities, including conversion of rail lines to trails under the Trails Act, in its environmental review of proposed abandonments. However, given the comments in support of the proposed abandonment submitted by local government agencies and organizations, OEA concludes that the proposed abandonment would be consistent with existing land use plans. Accordingly, OEA is not recommending any environmental conditions be imposed upon the abandonment regarding local land use plans.

The National Geodetic Survey (NGS) has submitted comments stating that three geodetic station markers may be located near the rail lines proposed for abandonment. Accordingly, OEA is recommending a condition requiring NSR to consult with NGS prior to beginning salvage activities that could disturb or destroy these geodetic station markers.

Water Resources

The lines proposed for abandonment cross several small streams. In its review of available geospatial data, OEA also concluded that the lines proposed for abandonments cross areas that may contain wetlands.² Given the limited scope of proposed salvage activities, OEA believes that negative impacts to waterways and wetlands are unlikely to occur as a result of the proposed abandonment.

NSR requested comments from the North Carolina Department of Environment and Natural Resources (NCDENR) regarding the need for a National Pollution Discharge Elimination System (NPDES) permit under Section 402 of the Clean Water Act (33 U.S.C. § 1251). To date, NCDENR has not provided comments. NSR states that salvage activities would not involve any in stream work and would not result in the discharge of pollutants into streams or other waterways. Based on the information available to date, OEA concurs with NSR that a NPDES permit would not be required for the proposed abandonment. Nevertheless, because the lines proposed for abandonment cross several streams and because salvage activities would include the removal of two bridges over streams, OEA is recommending an environmental

² U.S. Fish and Wildlife Service, National Wetlands Inventory, <http://www.fws.gov/wetlands/Data/Mapper.html> (last visited June 26, 2015).

mitigation condition requiring NSR to consult with NCDENR regarding potential water quality impacts of the proposed abandonment prior to undertaking salvage activity. OEA is sending a copy of this EA to NCDENR for review and comment.

NSR requested comments from the Wilmington District of the U.S. Army Corps of Engineer (the Corps) regarding the need for a permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344). In its response, the Corps states that, based on its review of the proposed abandonment, salvage activities would be unlikely to impact streams and wetlands within the rail right-of-way. The Corps notes, however, that the discharge of excavated or fill material into waterways or wetlands under the Corps' jurisdiction would require a Corps permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. § 1344). The Corps notes that it is unable to verify that the proposed abandonment would not have jurisdictional impacts or to provide specific comments on permitting requirements until additional data on the extent of the project is provided and an onsite inspection is completed. The Corps recommends that NSR conduct a detailed delineation of streams and wetlands in the project area and forward the results of this study to the Corps for review and comment.

Because salvage activity would take place within any existing rail right-of-way, because these activities would be limited to the removal of track and track material, OEA believes that it is unlikely that the proposed abandonment would result in the discharge of any dredge or fill material into waters of the United States, and, therefore, a Section 404 permit would not be required. Because the Corps has requested additional information regarding the extent of the proposed abandonment and the location of stream and wetlands in the project area, OEA is recommending an environmental mitigation condition requiring NSR to consult with the Corps prior to conducting any salvage activities. OEA is sending a copy of this EA to the Corps for its review and comment.

Hazardous Materials

NSR states that it has no knowledge of any hazardous waste sites or sites where hazardous material spills have occurred on or adjacent to the right-of-way. OEA's review identified one federal Superfund site in the vicinity of the lines proposed for abandonment.³ This site is the Celanese Ticona Shelby Plant, located on Blackburn Road in Grover, North Carolina. According to the site report in the U.S. Environmental Protection Agency's Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) database, the Celanese Fibers Operations site is a 450 acre property occupied by a polyester raw-material production facility. The site was originally operated by Fiber Industries, Inc., a joint venture of Celanese Corporation and Imperial Chemicals, Inc. In 1987, it was determined that remediation was required for glycol recovery unit waste pits and other scattered pits containing wastes disposed of during the 1960s. The areas under remediation are located to the east and north of the plant site, outside of the right-of-way of the rail line proposed for abandonment.⁴

³ Environmental Protection Agency, NEPAassist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited June 26, 2015).

⁴ Environmental Protection Agency, CERCLIS database,

Because salvage activity would be limited to the removal of track and track material and would be conducted within an existing rail right-of-way outside of any areas potentially affected by the Celanese Ticona Shelby Plant waste site, OEA concludes that the proposed abandonment would not affect the site. Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

Biological Resources

Pursuant to Section 7 of the Endangered Species Act at 50 C.F.R. § 402, OEA conducted a search of the USFWS Information, Planning, and Conservation System (IPaC) in order to identify any protected species that could be affected by the proposed abandonment.⁵ The table below shows the protected species known or thought to occur in Cleveland County, North Carolina.

Protected Species in Cleveland County, North Carolina			
Group	Common Name	Scientific Name	Status
Flowering Plants	Dwarf-flowered Heartleaf	<i>Hexastylis naniflora</i>	Threatened
Mammals	Northern Long-eared Bat	<i>Myotis septentrionalis</i>	Threatened

In its review, OEA confirmed that the rail lines proposed for abandonment do not cross any areas designated as critical habitat for either of these species.⁶

In response to NSR's request for comments on the proposed abandonment, the U.S. Fish and Wildlife Service (USFWS) submitted comments stating that the proposed abandonment would likely not affect any federally listed threatened or endangered species.

Because salvage would be limited in scope and would take place within an existing rail right-of-way, OEA concurs with USFWS that the proposed abandonment would not affect any federally listed threatened or endangered species. In response to USFWS' further comments, OEA is recommending a condition requiring NSR to consult with USFWS in the event that new information reveals that threatened or endangered species or critical habitat could be affected by salvage activities, proposed salvage activities are changed, or in the event that one or more new species are listed as threatened or endangered prior to the completion of salvage activities that could be affected by these activities.

Air Quality

http://ofmpub.epa.gov/enviro/cerclisquery.get_report?pgm_sys_id=NCD003446721 (last visited June 26, 2015).

⁵ U.S. Fish and Wildlife Service, Information, Planning, and Conservation System, <http://ecos.fws.gov/ipac/> (last visited June 26, 2015).

⁶ U.S. Fish and Wildlife Service, Critical Habitat Portal, <http://ecos.fws.gov/ipac/> <http://ecos.fws.gov/crithab/> (last visited June 26, 2015).

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality.

Noise

Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Summary

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is providing a copy of this EA to NCDENR and the Corps review and comment.

HISTORIC REVIEW

According to NSR, the rail lines proposed for abandonment were constructed between 1886 and 1889 by the Charleston, Cincinnati, and Chicago Railroad (the Triple C). The Triple C was sold and reorganized in 1893 as the Ohio River and Charleston Railroad. The rail lines proposed for abandonment were sold in 1898 to the South Carolina and Georgia Railroad Company, which was consolidated into the Southern Railway Company in 1902. The Southern Railway Company became Norfolk Southern Railway Company in 1990.

There are three bridges within the right-of-way (the Area of Potential Effect or APE) of the proposed abandonment. A 99.9 foot long bridge over Sulfur Springs Road at Milepost SB 150.2 has six spans of timber and one span of steel deck girder and was constructed in 1950. A 148.6 foot long bridge over Little Hickory Creek at Milepost SB 150.3 has eleven spans of timber and was constructed in approximately 1937. And, the 445.2 foot long bridge over Big Hickory Creek at Milepost SB 151.2 has 27 timber spans and was built around 1935. NSR intends to remove these three bridges should abandonment authority be granted in this proceeding. Other than the three bridges, no other structures within the APE would be affected by the proposed abandonment.

NSR served the Historic Report, including topographic maps of APE, on the North Carolina Department of Cultural Resources (State Historic Preservation Officer or SHPO), pursuant to 49 C.F.R. § 1105.8(c). In its comments, the SHPO states that the proposed abandonment would be unlikely to affect any historic or archeological resources listed in or eligible for listing in the National Register of Historic Places (the National Register). The SHPO notes that the three bridges located at Sulphur Springs (Milepost SB 150.2), Little Hickory Creek (Milepost 150.3) and Big Hickory Creek (Milepost SB 151.2) are not considered eligible for inclusion in the National Register. OEA has reviewed the report and the information provided by the SHPO, and we concur with the SHPO's finding of no adverse effect.

In its comments, the SHPO notes that several properties of historical significance are

located near the project APE. These properties include the following:

- Sunset Cemetery
- Central Shelby Historic District
- Central Shelby Historic District Boundary Increase
- Southern Railway Freight Depot
- Shelby Cotton Mills
- Gulf Oil Distributorship

The SHPO notes that none of the identified properties would be adversely affected by the proposed abandonment. However, the SHPO does request that NSR provide information to the SHPO regarding the future use of the Southern Railway Freight Depot. Because the Southern Railway Freight Depot is not a rail property under Board authority in the present abandonment proceeding, OEA does not have any additional information to provide regarding NSR's plans for the future use of this property.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally recognized tribes that may have ancestral connections to the project area.⁷ The search did not identify any federally recognized tribes that could have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that no known historic properties listed in or eligible for inclusion in the National Register would be affected within the APE of the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. §800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at www.stb.dot.gov. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

- 1. Norfolk Southern Railway Company shall notify the National Geodetic Survey (NGS) at least 90 days prior to beginning salvage activities that will disturb or**

⁷ National Park Service, National NAGPRA Program Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited June 26, 2015).

destroy any geodetic station markers in order to plan for the possible relocation of the geodetic station markers by NGS.

- 2. Prior to the commencement of any salvage activities, Norfolk Southern Railway Company (NSR) shall consult with the North Carolina Department of Environment and Natural Resources (NCDENR) regarding the potential for impacts of salvage activities on water quality and shall comply with that agency's reasonable permitting requirements. NSR shall report back the results of any consultations with NCDENR prior to beginning salvage activities.**
- 3. Prior to the commencement of any salvage activities, Norfolk Southern Railway Company (NSR) shall consult with the Wilmington District of the U.S. Army Corps of Engineers (the Corps) regarding the potential for impacts of salvage activities on wetlands and waterways and shall comply with the Corps' reasonable permitting requirements. NSR shall report back the results of any consultations with the Corps prior to beginning salvage activities.**

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, the proposed abandonment would not significantly affect the quality of the human environment.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption would not be affected.

Discontinuance of trackage rights over the adjacent rail line owned by CSXT and discontinuance of the NSR line in Cherokee County, South Carolina would have no environmental impacts. Therefore, the environmental impact statement process is unnecessary in this proceeding.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

Requests for a notice of interim trail use (NITU) are due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register.

Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Joshua Wayland, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-290 (Sub-No. 327X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at waylandj@stb.dot.gov.

Date made available to the public: July 10, 2015

Comment due date: July 27, 2015

By the Board, Victoria Rutson, Director, Office of Environmental Analysis